

New Mexico Affordable Housing Tax Credit Program Notice of Funding Availability

Approved by the MFA Board of Directors April 21, 2010
Effective July 1, 2010

Background and Purpose

The New Mexico Affordable Housing Tax Credit Program, also referred to herein as the State Tax Credit Program, was created by approval of the Affordable Housing Tax Credit Act by the Legislature of the State of New Mexico in March 2005 and signed into law by Governor Bill Richardson in April 2005. The State Tax Credit Program provides tax credits to individuals, businesses and local governments that provide donations to Affordable Housing Projects approved by the New Mexico Mortgage Finance Authority ("MFA"). The state offers credits on income taxes, gross receipts taxes and compensating taxes (excluding local option gross receipts tax imposed by a municipality or county, or the government gross receipts tax) to any eligible individual, business, and local or tribal government that donate land, buildings, materials, cash or services for an affordable housing project approved by MFA or for a trust fund administered by MFA. The credit is equal to 50% of the value of the donation. MFA is a governmental instrumentality separate and apart from the state, created by the New Mexico Mortgage Finance Authority Act for the purpose of financing affordable housing for low and moderate income New Mexico residents. MFA is responsible for adopting rules for the approval, issuance and administration of the investment vouchers.

The purpose of this Notice of Funding Availability (NOFA) is to solicit applications from qualified sponsors for Affordable Housing Projects in accordance with the State Tax Credit Program. Sponsors whose projects are designated as eligible affordable housing projects under the State Tax Credit Program will receive a reservation of available tax credits for a given program year. This reservation will enable the project sponsor to solicit donations to pay for eligible costs for the Affordable Housing Project. Upon acceptance of evidence of donations and valuation and satisfaction of readiness and other program requirements for the project, MFA will issue investment vouchers to the donor.

MFA may also issue investment vouchers to donors who donate directly to a trust fund administered by MFA. MFA created the New Mexico Affordable Housing Charitable Trust in November 2007 and received IRS approval of tax exempt status under section 501(c)(3) of the Internal Revenue Code in June 2008. For donations made directly to the New Mexico Affordable Housing Charitable Trust administered by MFA, investment vouchers will be issued to donors upon receipt of the donation and review and approval of documentation. Those vouchers are issued outside of the process outlined this NOFA.

Contact Person

Applicants are encouraged to direct questions regarding this NOFA to:

Dan Foster
New Mexico Mortgage Finance Authority
344 4th Street SW
Albuquerque, NM 87102
Phone: (505) 843-6880 or toll-free statewide (800) 444-6880
Fax: (505) 243-3289
E-mail: dfoster@housingnm.org

Application Submission and Due Date

MFA awards New Mexico Affordable Housing Tax Credit reservations on a first-come first served basis according to the Project Selection Criteria outline below. To be considered, complete applications must be received at the MFA office. Applications will NOT be accepted via facsimile or electronically. Only one complete, original hard copy is required. The required forms will be provided electronically and may be downloaded from MFA's web site at www.housingnm.org/developer/. All applications shall be marked "New Mexico Affordable Housing Tax Credit Program Application" in readily visible print. On receipt, MFA will date and time stamp the cover. All applications must include an application fee of \$200. If an application is successful in receiving a reservation, an additional fee of \$500 is due within 30 days of notification.

Applications may be delivered by U.S. mail, by courier service, or by hand to the following address:

New Mexico Mortgage Finance Authority
344 4th Street SW
Albuquerque, NM 87102
(505) 843-6880
Attn: Housing Tax Credit Program Manager

Complete applications will meet the following standards:

1. Bear the original signature of the applicant.
2. Include the application form, application checklist, and all mandatory items listed on the application checklist at the time it is submitted.
3. Include the application fee.
4. All applications must be self-contained.

Failure to provide or complete any element of the application may result in rejection of the application. MFA may request additional information as deemed necessary for a fair and accurate evaluation; MFA, however, is under no obligation to seek further information or clarification to complete its review of the application. The applicant will bear full responsibility for submitting its application in accordance with the requirements of this Notice.

Program Summary

MFA will make available investment vouchers in the following amounts for eligible Affordable Housing Projects approved by MFA through the application process described herein and for donations made directly to a trust fund administered by MFA.

Amount available

Beginning on January 1, 2008 and during each subsequent calendar year, MFA may issue or approve investment vouchers for an amount each calendar year equal to \$1.85 (adjusted annually) multiplied by the state population.

Eligible Applicants

Eligible applicants include non-profit or for-profit developers, governmental and tribal instrumentalities. Applicants must be legally able to do business in New Mexico. Non profit applicants must be able to demonstrate compliance with the New Mexico Charitable Solicitations Act.

Eligible Projects

Affordable Housing Projects include MFA approved single-family homebuyer projects, multifamily rental projects, as well as transitional housing and emergency shelters. Activities may include land and building acquisition, construction, remodeling, improvement, rehabilitation, conversion or weatherization. Downpayment and closing cost assistance is an eligible activity related to the acquisition of single-family housing. Funding of operating expenses is not an eligible activity under the New Mexico Affordable Housing Tax Credit Program.

Eligible Donations and Investment Vouchers

Donations may include land, buildings, materials, cash (and cash equivalents) or services. Evidence that the donation has been secured and the value of donation (other than cash) satisfactory to MFA will be required prior to issuing an investment voucher to the donor. Donations received by a project sponsor in exchange for tax credits may be used to fund land and building acquisition (including downpayment and closing cost assistance for the acquisition of single family housing), construction, remodeling, improvement, rehabilitation, conversion or weatherization throughout the state. The minimum permitted donation to an Affordable Housing Project is \$200; the maximum donation to an Affordable Housing Project which will be eligible for an investment voucher is \$1,000,000. Donors will receive an investment voucher for the lesser of: 1) 50% of the value of their donations or 2) the amount requested. Investment vouchers issued on behalf of a given project can not exceed the amount reserved for a project.

Investment vouchers will be issued by MFA only after securing evidence of the donation irrevocably and unconditionally contributed, expended or devoted, and for donations applied directly to a project, and evidence of the project meeting certain readiness requirements including, but not limited to:

- 1) Site control,
- 2) Securing other financing commitments, and
- 3) Recording of a Land Use Restriction Agreement.

Alternately, when donations are made to fund a downpayment assistance program for Affordable Housing Projects the voucher will be issued to the donor after securing evidence of the donation irrevocably and unconditionally contributed to the sponsor and upon the sponsor entering into a written binding agreement with MFA. This agreement will govern the use of such funds only for eligible homebuyers, eligible Affordable Housing Projects, and outline compliance and reporting requirements.

Unit Set Asides and Compliance Period

The program will not have minimum set-aside requirements; the tax credit reservation, however, will be sized based on the number of units that are designated affordable. The housing cost for the affordable unit should be within the guidelines described below.

- **Single Family:** Mortgage payments for the purchase or rehabilitation of owner occupied housing as a percentage of the incomes of eligible and targeted households must not exceed acceptable industry standards for secondary market financing. Mortgage payments include principal, interest, taxes, and insurance (PITI).
- **Multifamily:** Rent rates must be no greater than 30 percent of the maximum eligible household target income for the assisted unit. Gross rent includes the cost of all utilities except telephone and cable television. Should the occupant pay any utilities directly, the gross rental rate will be reduced by a utility allowance.

The set-aside requirements will be enforced with a Land Use Restriction Agreement (or an acceptable alternative) for a minimum period of 5 years for Single Family Housing and 10 years for Multifamily Housing. The Affordability Period for downpayment assistance is defined as follows: If the amount of the donation that is being used for a unit is below \$5,000, it shall be considered impractical for MFA to impose an Affordability Period. If the amount of the donation that is being used for a unit is from \$5,000 to \$14,999, then the Affordability Period shall be not less than five (5) years. If the amount of the donation that is being used for a unit is from \$15,000 to \$40,000, then the Affordability Period shall be not less than ten (10) years. If the amount of the donation that is being used for a unit is greater than \$40,000 then the Affordability Period shall be not less than thirty (30) years. The project sponsor, in its sole discretion, may increase the Affordability Period in any contract, note mortgage, loan agreement, land use restriction agreement, restrictive covenant agreements and/or any other agreement which the project sponsor may enter into with any beneficiary of the donation. Affordability shall be achieved by the recapture of assistance upon resale, refinance or transfer of ownership within the applicable Affordability Period. All recaptured funds shall be earmarked for affordable housing purposes only.

The owner of a multifamily project will be required to certify annually compliance with use requirements. The project sponsor and the single family owner occupant will provide certification at initial sale/occupancy. Any transfer of ownership would require notification to MFA. Subsequent owners must also provide certifications to MFA as outlined above. MFA will retain the right to audit records and inspect properties. Any project sponsors that our found to be in non-compliance will be ineligible for future program participation.

Project Selection Criteria

Applications will be scored according to the following criteria:

1. The degree to which the applicant has leveraged other public or private sector resources appropriate for the proposed type of affordable housing project or activity. Applicants are expected access other resources that are available for the type of housing project proposed. Up to 20 points will be awarded to applicant projects that demonstrate other planned or committed financing sources.
Maximum Points Awarded: 20
2. The degree to which the applicant has demonstrated the need and market for the proposed Affordable Housing Project or activity. Up to 30 points will be awarded to applicant projects that demonstrate market demand through means such as market studies, appraisals, redevelopment plans, community support, surveys and prospect lists. In addition points may be awarded to applicant projects that demonstrate the ability to maintain long term affordability.
Maximum Points Awarded: 30
3. The degree to which the applicant has demonstrated readiness to proceed. Up to 40 points will be awarded to applicant projects that are ready to begin implementation immediately with any environmental review requirements completed, any site control secured, planning design and permitting complete, any availability of utilities, other resources firmly committed, and identification of donors/donations and all other related upfront issues resolved.
Maximum Points Awarded: 40
4. Strength and experience of the sponsor, development team and management entity. Up to 10 points will be awarded to applicant projects that have a development team with the capacity to complete the project as proposed in a timely and efficient manner.
Maximum Points Awarded: 10

Additional points will be awarded to projects which meet the following investment priorities:

5. Projects which will produce affordable homeownership units.
Maximum Points Awarded: 10
6. Projects serving the lowest income households appropriate for the type of affordable housing project or activity. For example, appropriate income levels of households served by a transitional housing project may be at or below 30% of the area median, whereas appropriate income levels for a homeownership project may be at or below 80% of the area median. Appropriateness may also vary due to the average gross median income for a given area.
Maximum Points Awarded: 10

Projects will be ranked according to their scores and reservations will be made to projects, unless they are eliminated under subsequent processing, starting with the highest scoring projects until all available investment vouchers are reserved.

Staff Analysis and Application Processing

Design Review

Each project will be subject to a design review. All properties must meet applicable state and local building codes, and handicapped accessibility requirements, as well as any applicable requirements from federal funding sources. In addition all projects must comply with MFA Design Standards.

Development Team Review

Debarment from MFA programs, HUD or other federal programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or HUD financed projects by or on the part of any proposed sponsor or development team member or owner or principal may result in rejection of an application by MFA.

The project sponsor will be evaluated for their capacity to complete the proposed project. Staff will review the qualifications of each development team member to determine capacity to perform in the role proposed. Considerations may include related experience, financial capacity, performance history, references, management, staff, and administrative procedures, among others. An application may be rejected or substitutions requested if the development team or any member thereof is unsuitable as determined by MFA.

Feasibility Analysis

Staff will underwrite the projects completely to ensure soundness, and will apply industry practice in assessing each project proposed. Factors considered in this analysis will include: market need, target market, target set-asides, unit mix and design, development and operating costs, adequacy of reserves, scope of work, terms and availability of other sources of financing, ability to repay debt, and housing cost to tenant/owner. Developer and builder fees will be expected to be at reasonable levels, and may be adjusted by MFA. MFA may also make reservations contingent on specific modifications to the project that MFA in its sound judgment considers necessary to enhance the feasibility or safety of the project. Underwriting for downpayment and closing cost assistance provided by sponsors of single family affordable housing may be delegated to qualified sponsors, upon review and approval of the sponsor for such activity based on the sponsor's organizational and financial capacity.

Reservation Amount

After evaluation of all the factors describe above, MFA will determine the reservation amount based on the amount of donations necessary to fill any remaining and necessary funding gap.

Award Limits

No project will receive an award in excess of 25% of the annual available amount for the year the reservation is made, unless there are too few eligible projects requesting a reservation. At MFA's discretion, exceptions to this limit may be made to ensure maximum distribution and/or effective utilization of the investment vouchers.

Notification and Subsequent Requirements

Upon successful review of an application, MFA will issue a reservation letter to an applicant of a qualified affordable housing project. The reservation letter authorizes the sponsor to solicit donations that would be eligible for tax credits up to the credit amount authorized by the reservation letter. The project sponsor is responsible for providing evidence of all eligible donations and satisfactory valuation documentation. Upon receipt and review of the donation documents, and only after the project has met all other readiness requirements as outlined in the reservation letter, MFA will issue investment vouchers to the donors. MFA shall notify Taxation and Revenue within 20 days of the issuance of a voucher. If a donor conveys all or a fraction of the certificate to an eligible individual or business, the donor shall provide notification to MFA and Taxation and Revenue within 10 days of such transfer.

Appeals Process

Any applicant who is aggrieved in connection with this NOFA or the award of a reservation pursuant to this NOFA may protest to MFA. The protest must be written and addressed to the Contact Person. Appeal requests must be specific to the decision being appealed, and must include an appeal processing fee of \$500. The protest must be delivered to MFA within fifteen (15) calendar days after the notice of reservation or rejection. Upon the timely filing of a protest, the Contact Person shall give notice of the protest to all applicants who appear to have a reasonable prospect of being affected by the outcome of the protest. The applicants receiving notice may file responses to the protest within seven (7) calendar days of notice of protest. A committee made up of MFA Board of Directors shall review the protest and responses to the protest and shall make a recommendation to the Board of Directors regarding the disposition of the protest.

The Board of Directors shall make a final determination regarding the disposition of the protest. Applicants or their representatives shall not communicate with MFA Board of Directors or staff members regarding any proposal under consideration, except when specifically permitted to present testimony to the committee of the Board of Directors. A proposal will be deemed ineligible if the applicant or any person or entity acting on behalf of applicant attempts to influence members of the Board of Directors or staff during any portion of the review process, or does not follow the prescribed Application and Protest process.